CHAPTER TWO
ALTERNATIVES

2.1 Overview of Alternatives Subject to Detailed Analysis

This chapter presents the range of alternatives considered for the proposed land exchange between the Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians. It includes three alternatives: the proposed action, preferred alternative, and no action alternative.

The proposed action reflects the potential for the transfer of all public lands selected for the land exchange described in the feasibility report (BLM 2001a) and the supplement thereto (BLM 2001b), the agreement to initiate an assembled land exchange (BLM and ACBCI 2002) and the supplement thereto (BLM and ACBCI 2003), the Santa Rosa and San Jacinto Mountains National Monument Management Plan (BLM and Forest Service 2003), and environmental assessment CA-060-0010-0005 (BLM 2010). The preferred alternative is identical to the proposed action, except that it eliminates all public lands in section 36, T.4S. R.4E., from the land exchange in order to better conform to the stated purpose and need for the land exchange. Figures 2a through 2c depict which public and Tribal lands may be exchanged under scenarios one through three of the proposed action; Figure 2d depicts the potential exchange of public and Tribal lands under the preferred alternative.

A no action alternative is presented as a requirement of the regulations promulgated by the Council on Environmental Quality for implementing the National Environmental Policy Act (40 CFR § 1502.14(d)). While the no action alternative does not respond to the purpose and need for the action, it provides a useful baseline for a comparison of environmental effects and demonstrates the consequences of not meeting the need for the action. (Figure 2e depicts the no action alternative.) However, selection of the no action alternative does not mean that a decision would not be made or that actions would not occur. If the BLM were to select the no action alternative, it would be making the decision to not undertake the proposed exchange of lands with the Agua Caliente Band of Cahuilla Indians. The retained public lands would continue to be managed in accordance with applicable statutes, regulations, policies, and land use plans. Lands retained by the Tribe that were acquired specifically to implement the proposed land exchange would be managed consistent with the Tribe's Land Use Ordinance, Indian Canyons Master Plan, and Tribal Habitat Conservation Plan.

2.2 Proposed Action (Proposed Land Exchange)

The proposed land exchange would result in the transfer of all or portions of the public lands described below, depending on appraised values, from the Bureau of Land Management to the Agua Caliente Band of Cahuilla Indians.[1] It is anticipated to be a single transaction assembled land exchange with one real estate closing and parcel values equalized under the provisions of 43 CFR § 2201.6.[2] Only the BLM parcels described in this proposed action will be considered for

[1] Land exchanges completed by the BLM are not on an acre for acre basis, rather they are completed on an equal value basis with differences in value between the federal and nonfederal lands equalized by either the addition or subtraction of lands or by a cash payment not exceeding 25 percent of the value of the federal lands involved in the land exchange (BLM 2005b).

[2] Environmental assessment CA-060-0010-0005 (BLM 2010) indicated that the proposed action would occur in two phases as a multiple transaction, assembled land exchange. The need for a second phase

exchange with the Tribe. Once the value of the properties is equalized, the exchange will have been completed. The order in which the selected public lands are considered in the equalization process, therefore, conditions the environmental analyses. Three scenarios of the proposed action, which reflect the equalization process described below, are analyzed in chapter four of this draft EIS; each scenario describes a different amount of the selected public lands that may be exchanged for the offered Tribal lands. For purposes of the value equalization process, the BLM parcels proposed for exchange fall into three categories:

BLM Category 1 parcels (totaling approximately 4,014.95 acres):

T.4S. R.4E.	section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4 (28.95 acres);
	section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of lot 1, N1/2 of lot 2 (142.14 acres)
T.5S. R.4E.	section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2 (643.06 acres);
	sections 16, 21, 27, 29, and 32, all (3,200.80 acres)

BLM Category 2 parcels (totaling approximately 641.25 acres):

T.5S. R.4E.	section 36, all (641.25 acres)

BLM Category 3 parcels (totaling approximately 1,142.78 acres):

T.4S. R.4E.	section 16, all (634.89 acres);
	section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4 (507.89 acres)

Total acreage of all three BLM exchange categories = approximately 5,798.98 acres.

Tribal parcels identified for exchange (totaling approximately 1,470.00 acres):

T.5S. R. 5E.	section 7, all (656.29 acres);
	section 19, all (649.50 acres);
	section 20, W1/2W1/2 (164.21 acres)

How the exchange will be completed

Step 1:
The appraised value of BLM Category 1 parcels will be compared with the appraised value of the offered Tribal parcels. If their values are equal, then only BLM Category 1 parcels would be exchanged. No BLM Category 2 or 3 parcels would be included in the final exchange and the transaction would be complete. Category 2 and 3 parcels would remain under jurisdiction of the BLM. This potential outcome is analyzed in chapter four as *scenario one* of the proposed action.

Step 2:
If the appraised value of all BLM Category 1 parcels exceeds the value of the offered Tribal parcels, the amount of BLM Category 1 parcels may be reduced to the extent that their value is equal to the Tribal parcels, or a cash payment not exceeding 25 percent of the value of the federal

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was predicated on a preliminary assessment that the estimated appraised value of the public lands selected for exchange exceeds the estimated appraised value of the Tribal lands offered in the exchange, therefore necessitating the acquisition of additional lands by the Tribe to complete the overall exchange. The acquisition of such additional lands, however, is not anticipated at this time; hence, the proposed land exchange will consist of a single transaction.

lands may be made by the Tribe to conclude the exchange, though equalization by subtracting public lands is preferred.

Step 3:
If the appraised value of all BLM Category 1 parcels is less than the appraised value of the offered Tribal parcels, the BLM Category 2 parcel would be added to the exchange in order to equalize values. If the total appraised value of BLM Category 1 and 2 parcels equals the appraised value of the Tribal parcels, the transaction would be complete. No further consideration would be given to an exchange of BLM Category 3 parcels; these parcels would remain under jurisdiction of the BLM. This potential outcome is analyzed in chapter four as *scenario two* of the proposed action. If the total appraised value of BLM Category 1 and 2 parcels exceeds the value of the Tribal parcels, the amount of BLM Category 2 parcels included in the exchange may be reduced so that the total parcel value is equal to the Tribal parcels, or a cash payment not exceeding 25 percent of the value of the federal lands may be made by the Tribe to conclude the exchange.

Step 4:
If the appraised value of all BLM Category 1 and 2 parcels is less than the appraised value of the offered Tribal parcels, BLM Category 3 parcels would be added to the exchange in order to equalize values. If the total appraised value of BLM Category 1, 2, and 3 parcels equals the appraised value of the Tribal parcels, the transaction would be complete. This potential outcome is analyzed in chapter four as *scenario three* of the proposed action. If the total appraised value of BLM Category 1, 2 and 3 parcels exceeds the value of the Tribal parcels, the amount of BLM Category 3 parcels included in the exchange may be reduced so that the total parcel value is equal to the Tribal parcels, or a cash payment not exceeding 25 percent of the value of the federal lands may be made by the Tribe to conclude the exchange. If the appraised value of the Tribal parcels exceeds the total value of BLM Category 1, 2, and 3 parcels, the amount of Tribal parcels included in the exchange may be reduced so that the total parcel value is equal to the federal parcels, or a cash payment not exceeding 25 percent of the value of the Tribal lands may be made by the BLM to conclude the exchange.

Development or other land disturbing activities are not proposed as part of this land exchange, nor are they reasonably foreseen.[3] Future proposals on these lands would be reviewed in accordance with the National Environmental Policy Act, as well as other applicable laws, regulations, and policies. Lands acquired by the Tribe would be designated as Tribal reserve under the Tribe's Land Use Code for the Agua Caliente Indian Reservation and subject to the requirements of that code, and would be managed consistent with provisions of the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan. The ICMP and THCP allow for limited environmentally and culturally compatible development on lands designated as Tribal reserve; however, no development is foreseen at this time. Should development be proposed in the future, it will be subject to Tribal Environmental Policy Act review at the time it is proposed.

[3] The description of the proposed action must include the "likely" foreseeable future use of both the federal and nonfederal lands (BLM 2005b). Reasonably (or "likely") foreseeable future actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends, but speculation about future actions is not required (BLM 2008a).

Management of acquired lands

Lands acquired by the BLM:

In accordance with the CDCA Plan Amendment for the Coachella Valley (BLM 2002), BLM-managed lands within conservation areas, which include all public lands within the Monument, are classified as Multiple Use Class L ("Limited Use"). The offered Tribal lands acquired by the BLM, however, would be considered "unclassified" until the CDCA Plan is amended to classify them as Multiple Use Class L; the CDCA Plan does not provide that acquired lands automatically assume the Multiple Use Class assigned to the contiguous public lands. Under the CDCA Plan, these acquired unclassified lands would be managed on a case-by-case basis. Therefore, the Multiple Use Class guidelines would not apply.

However, the acquired lands would, in fact, be managed consistent with Multiple Use Class L guidelines pending such classification, or at a level that affords even more protection. The U.S. Congress established the Santa Rosa and San Jacinto Mountains National Monument to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein. Section 6(d) of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 provides that any land or interest in lands within the boundaries of the Monument that is acquired by the United States after the date of enactment of the Act (October 24, 2000) shall be added to and administered as part of the Monument. Section 3(a) of the Act requires that public lands in the Monument shall be managed to protect the resources of the Monument, and only those uses that further the purposes for the establishment of it shall be allowed.

Consequently, the management of lands acquired by the BLM from the Tribe, in compliance with statutory requirements, would be managed in a manner that is consistent with or exceeds the protective requirements under Multiple Use Class L guidelines.

Lands acquired by the Tribe:

The Indian Canyons Master Plan and Tribal Land Use Code designate the exchange lands as Tribal Reserve, which significantly limits development potential. The Land Use Code also assigns the Mountains and Canyons Overlay to the exchange lands. This overlay restricts development consistent with the preservation goals of the THCP, thereby assuring limited development potential which protects species identified in the THCP.

2.3 Preferred Alternative

The BLM's preferred alternative is identical to the proposed action except that it eliminates all public lands in section 36, T.4S. R.4E., from the land exchange in order to better conform to the stated purpose and need for the land exchange. Lands considered for exchange under this alternative are limited to the following:

BLM Category 1 parcels (totaling approximately 4,014.95 acres):

T.4S. R.4E. section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4 (28.95 acres);
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of lot 1, N1/2 of lot 2 (142.14 acres)

T.5S. R.4E. section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2 (643.06 acres);
sections 16, 21, 27, 29, and 32, all (3,200.80 acres)

BLM Category 2 parcels (totaling approximately 641.25 acres):

T.5S. R.4E. section 36, all (641.25 acres)

BLM Category 3 parcels (totaling approximately 634.89 acres):

T.4S. R.4E. section 16, all (634.89 acres)

Total acreage of all three BLM exchange categories = approximately 5,291.09 acres.

Tribal parcels identified for exchange (totaling approximately 1,470.00 acres):

T.5S. R. 5E. section 7, all (656.29 acres);
section 19, all (649.50 acres);
section 20, W1/2W1/2 (164.21 acres)

In 2010, the BLM acquired a majority of section 1, T.5S. R.4E., which is contiguous with section 36, T.4S. R.4E., one of the selected parcels of public lands identified for the proposed land exchange. It is located within the external boundaries of the Agua Caliente Indian Reservation. In accordance with the memorandum of understanding between the BLM and the Tribe regarding acquisition and exchange of lands within the Santa Rosa and San Jacinto Mountains National Monument, approved October 13, 1999, the BLM agreed to consult with the Tribal Council on any proposed acquisition within the reservation and reject proposals unless they have been offered to the Tribe as candidates for acquisition. The Tribe was offered the opportunity by the landowner to acquire these properties, but declined. The BLM subsequently purchased these lands.

As described in the response to issue question c(i) in section 1.4 of this draft EIS, the transfer of public lands in section 36, T.4S. R.4E., to the Tribe would be inconsistent with the purpose and need for the action, i.e., rather than maximize the size of a consolidated block of public lands in order to enhance management effectiveness and efficiency, the transfer would reduce the potential size of a consolidated block of public lands from approximately 14,614 acres to about 14,106 acres upon implementation of the proposed land exchange, thereby possibly reducing management effectiveness and efficiency. The preferred alternative retains all public lands in section 36 in public ownership, which more closely aligns with the stated purpose and need for the land exchange. While it represents the BLM's likely choice for a decision at this time, the agency's final decision may or may not be the preferred alternative, depending on public input, additional information received during the public comment period for this draft EIS, and outcome of the land value equalization process.

The manner in which the land exchange would proceed to equalize appraised values of the parcels is the same as described for the proposed action, except public lands in section 36, T.4S. R.4E., would not be considered. The management of lands acquired by the BLM and the Tribe would also be the same as described for the proposed action.

2.4 No Action Alternative

The proposed action or the preferred alternative would not be undertaken; lands would not be exchanged between the BLM and the Tribe. Management and use of public lands would continue to be subject to applicable statutes, regulations, policies, and land use plans.[4] Management and use of the Tribal parcels would be subject to the Tribe's Land Use Code, Indian Canyons Master Plan, and Tribal Habitat Conservation Plan.[5]

2.5 Alternatives Considered but Eliminated from Detailed Analysis

As required by the regulations at 40 CFR § 1502.14, agencies shall briefly discuss the reasons for eliminating alternatives from detailed study. The following two alternatives, which were identified during the scoping process, will not be addressed in chapter four of this draft EIS for the reasons outlined below:

a) Exclusion of sections 16 and 36, T.4S. R.4E., from the proposed land exchange

During the public scoping meetings conducted in March 2012, some members of the public proposed that an alternative excluding public lands in sections 16 and 36, T.4S. R.4E., from the proposed land exchange be addressed in the EIS. Concern was raised regarding the manner in which the Tribe would manage non-motorized trails in these sections, whether in the near or far term, and that decisions affecting public access to trails would be made without the public being afforded an opportunity to participate in the decision-making process. Uncertainty about such management and the public's concern that the Tribe might restrict access or charge a fee for the use of trails was perceived as a potential loss of a significant public resource. Additionally, some participants in the scoping process raised concern about the Tribe possibly approving development in the eastern half of section 36, and identified such possibility as additional

[4] Typically, a finding of unnecessary or undue degradation conditions the no action alternative, pursuant to 43 CFR § 3809.0-3(b). As described in § 3809.0-3(b), sections 302, 303, 601, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) require the Secretary of the Interior to take any action, by regulation or otherwise, to prevent unnecessary or undue degradation of the federal lands, provide for enforcement of those regulations, and direct the Secretary to manage the California Desert Conservation Area under reasonable regulations which will protect the scenic, scientific, and environmental values against undue impairment, and to assure against pollution of streams and waters. It is important to acknowledge, however, that the purpose of the regulations at 43 CFR Subpart 3809 is to establish procedures to prevent unnecessary or undue degradation of the federal lands which may result from operations authorized by the mining laws (43 CFR § 3809.0-1). "Mining laws" means the Lode Law of July 26, 1866, as amended (14 Stat. 251); the Placer Law of July 9, 1870, as amended (16 Stat. 217); the Mining Law of May 10, 1872, as amended (17 Stat. 91); and all laws supplementing and amending those laws (43 CFR § 3809.0-5(e)). Upon enactment of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, federal lands and interests in lands within the Monument were withdrawn from location, entry, and patent under the public land mining laws, subject to valid existing rights (section 5(i)(1)(B)). Since no valid rights exist on the public lands selected for the proposed land exchange, concerns regarding unnecessary or undue degradation which may result from operations authorized under the mining laws are moot.

[5] It is important to acknowledge that selection of the no action alternative does not mean that current management of the public and Tribal lands would be assured in either the short or long term. Should environmental or other circumstances change, modifications to the manner in which these lands are managed may be warranted.

rationale for excluding public lands in this section from the land exchange. This alternative is eliminated from detailed analysis in this draft EIS for the following reasons:

(i) Public concern regarding potential restrictions on access to trails focused on sections 16 and 36, T.4S. R.4E., due to the number and popularity of trails located in these sections. Section 16 contains a segment of the Skyline Trail (a.k.a. Cactus to Clouds Trail), which is of local and regional importance given the unique opportunity it provides to ascend more than 10,000 vertical feet as a day hike from Palm Springs to the summit of Mount San Jacinto. Public lands in section 36 contain segments of the Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails, which provide connectivity to other trails located to the east and south. The public raised lesser concern about potential restrictions on access to trails on other public lands identified in the proposed land exchange, which include segments of the Jo Pond, Indian Potrero, and Palm Canyon Trails in sections 21 and 36, T.5S. R.4E.

As discussed in the response to issue question d(i) in section 1.4 of this draft EIS, the Tribe is not likely to change current management of trails on public lands it acquires from the BLM in the near term. The development of an alternative that excludes certain public lands from an exchange proposal in response to speculation that the Tribe would restrict access to trails on these public lands or charge a fee for their use is not supported; hence, analyzing such an alternative is not warranted. However, both the BLM and the Tribe—whether the land exchange does or does not occur, or occurs in part—cannot commit to current management protocols. As resource conditions and visitor use change, there may be a need to modify the management of public access.

(ii) As indicated in section 2.1, an alternative has been developed that retains public lands in section 36, T.4S. R.4E., in public ownership, though not for reasons regarding the manner in which the Tribe would manage trail access upon acquisition. Although an alternative that excludes public lands in both sections 16 and 36 from the exchange proposal is not warranted for reasons described above, the preferred alternative, in excluding section 36, partially reflects the public's proposal.

b) Reservation of federal rights or interests

During the public scoping meetings conducted in March 2012, some members of the public also proposed that an alternative be developed that includes mitigation in the form of reserved federal rights or interests for public access to the exchanged lands, specifically to ensure continued public access by hikers, mountain bikers, and horseback riders to non-motorized trails on the selected public lands. As described in the response to issue question c(i) in section 1.4, it is the BLM's policy that deed use restrictions, covenants, and reservations be kept to an absolute minimum and used only where needed to protect the public interest. Further, mitigation in the form of deed restrictions on public land conveyed into nonpublic ownership, in general, should only be used where required by law or executive order, and clearly supported by the environmental documentation. The policy statement additionally constrains the use of reservations to those supported by the public benefit determination process and fully considered in the appraisal process.

Since changes to trail management under Tribal ownership are not anticipated in the near term as previously described, deed restrictions on the public lands conveyed to the Tribe are not clearly supported. Changes to the management of trails on the selected public lands are speculative. The Agua Caliente Band of Cahuilla Indians, in "Frequently Asked Questions about the BLM-Tribal

Land Exchange" (on-line posting), declares that it will manage trails on the acquired lands in the same manner as occurred prior to the exchange as changing or curtailing public access to them is neither feasible nor practical. Therefore, analysis of an alternative to reserve federal rights for public access through deed restrictions is not warranted.

The development of an alternative that reserves federal rights on public lands acquired by the Tribe to preclude future development occurring on them in order to protect Peninsular bighorn sheep and other species is also not warranted. Public benefits derived from adoption of such an alternative are nebulous considering that (1) the Tribe has committed to managing the acquired lands consistent with its Land Use Code, THCP, and ICMP, thereby providing for the conservation of resource values and limiting opportunities for development; (2) most of the selected public lands are not suitable for the types of development that could substantially affect natural and cultural resource values; (3) where the potential for development exists on the acquired lands, the Tribe has not indicated any intent to pursue development, so deed restrictions to preclude development would be based on pure speculation; and (4) "development" is variable and includes trail construction that could enhance public access, so precluding development in a programmatic fashion could have an adverse effect to the public, and attempts to limit a deed restriction to preclude only those activities that would not be of public benefit may prove to be a futile endeavor.

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